



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,532	06/13/2001	Martin L. Anderson	20010202.ORI	5010

23595 7590 09/30/2002
NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

EXAMINER

KRECK, JOHN J

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 09/30/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,532

Applicant(s)

ANDERSON, MARTIN L.

Examiner

John Kreck

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3673

DETAILED ACTION

The amendments dated 8/12/02 and 6/24/02 have been entered.

Claims 1-22 are pending in this application.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the solenoid and switches in the handle must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-13, 15, 17, 18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson, et al. (U.S. Patent number 4,162,809) in view of Fisher (U.S. Patent number 5,426,805).

Anderson shows a floor-stripping machine comprising a main body with wheels; a floor engaging cutting head member attached to the main body; and an electric motor mounted on the main body and mechanically connected to the cutting head member. The Anderson device is not self propelled, and fails to show the drive axle, drive wheels, hydraulic pump, reservoir, pressure outlet, hydraulic valve, hydraulic motor, and output shaft.

Fisher shows a similar device which is self-propelled and incorporates a drive axle (100) attached to drive wheels (12), hydraulic pump (30) attached to the main body and which is driven by the motor of the device, the pump coupled to a hydraulic fluid reservoir (16), the pump having an inlet coupled to the reservoir, and a pressure outlet coupled through a hydraulic valve to a hydraulic motor, the hydraulic motor having an output shaft coupled to the axle for driving the drive wheels. It is readily apparent that hydraulic components in combination with the drive axle reduce operator fatigue.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Anderson device to have a drive axle attached to drive wheels, hydraulic pump attached to the main body and which is driven by the motor of the device, the pump coupled to a hydraulic fluid reservoir, the pump having an inlet coupled to the reservoir, and a pressure outlet coupled through a hydraulic valve to a hydraulic motor, the hydraulic motor having an output shaft coupled to the axle for driving the drive wheels as called for in claim 1, and as taught by Fisher, in order to reduce operator fatigue.

Art Unit: 3673

With regards to claim 2; Fisher teaches the valve controls the direction of rotation of the drive wheels; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the valve controlling the direction of rotation of the drive wheels as called for in claim 2, in order to reduce operator fatigue.

With regards to claim 3; Fisher teaches the valve controls the speed of rotation of the drive wheels; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the valve controlling the speed of rotation of the drive wheels as called for in claim 3, in order to reduce operator fatigue.

With regards to claim 4; Fisher teaches the valve controls the speed of rotation of the drive wheels; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the valve controlling the speed of rotation of the drive wheels as called for in claim 4, in order to reduce operator fatigue.

With regards to claim 5, Anderson shows the handle.

With regards to claim 6; Fisher teaches the valve controls in the handle, but the actual valves in the body; applicant has not disclosed that the valve and hydraulic lines located in the handle provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with valve controls in the handle and the actual valves and hydraulic lines in the body because the location of the valves is

Art Unit: 3673

irrelevant to the operation of the machine. Therefore, it would have been obvious to one of ordinary skill in the art to further modify the Anderson device to obtain the invention as specified in claim 6.

Regarding independent claim 7:

Anderson shows a floor-stripping machine comprising a frame, an axle having a pair of wheels; a scrapper blade assembly resiliently mounted to the frame; and an electric motor mounted on the main body and mechanically connected to the cutting head member. The Anderson device is not self propelled, and fails to show the hydraulic circuit.

Fisher shows a similar device which is self-propelled and incorporates a hydraulic circuit including a hydraulic pump, fluid reservoir, motor and control valve mechanism, the pump driven by the motor of the device to circulate hydraulic fluid from the reservoir to the motor via the valve mechanism and the motor coupled in driving relation to the axle. It is readily apparent that hydraulic circuit reduces operator fatigue.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Anderson device to have a hydraulic circuit including a hydraulic pump, fluid reservoir, motor and control valve mechanism, the pump driven by the motor of the Anderson device to circulate hydraulic fluid from the reservoir to the motor via the valve mechanism and the motor coupled in driving relation to the axle as called for in claim 7, and as taught by Fisher, in order to reduce operator fatigue.

Art Unit: 3673

With regards to claim 8; Fisher teaches the valve controls the direction of rotation of the ground engaging wheels; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the valve controlling the direction of rotation of the ground engaging wheels as called for in claim 8, in order to reduce operator fatigue.

With regards to claim 9; Fisher teaches the valve controls the speed of rotation of the ground engaging wheels; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the valve controlling the speed of rotation of the ground engaging wheels as called for in claim 9, in order to reduce operator fatigue.

With regards to claim 10; Fisher teaches the valve controls the speed of rotation of the ground engaging wheels; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the valve controlling the speed of rotation of the ground engaging wheels as called for in claim 10, in order to reduce operator fatigue.

With regards to claim 11; Fisher teaches the safety valve (32); thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the safety valve as called for in claim 11, in order to provide additional safety.

With regards to claim 12; Fisher teaches the valve (32) provides fluid flow from the pump to the tank; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have

Art Unit: 3673

included the valve (32) provides fluid flow from the pump to the tank as called for in claim 12, in order to reduce operator fatigue.

With regards to claim 13; Fisher teaches the valve controls in the handle, but the actual valves in the body; applicant has not disclosed that the valve and hydraulic lines located in the handle provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with valve controls in the handle and the actual valves and hydraulic lines in the body because the location of the valves is irrelevant to the operation of the machine. Therefore, it would have been obvious to one of ordinary skill in the art to further modify the Anderson device to obtain the invention as specified in claim 13.

With regards to claim 15; Fisher teaches the control device (34); thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the control device as called for in claim 15, in order to reduce operator fatigue.

With regards to claim 17, Anderson shows the handle.

With regards to claim 18; Fisher teaches the valve in the handle; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the valve in the handle as called for in claim 18, in order to reduce operator fatigue.

With regards to claim 20; Fisher teaches the valve controls the speed of rotation of the ground engaging wheels; thus it would have been obvious to one of ordinary skill

Art Unit: 3673

in the art at the time of the invention to have further modified the Anderson device to have included the speed control valve controlling the speed of rotation of the ground engaging wheels as called for in claim 20, in order to reduce operator fatigue.

With regards to claim 21; Fisher teaches the pressure safety valve (32); thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included the pressure safety valve as called for in claim 21, in order to reduce operator fatigue.

With regards to claim 22, Anderson shows a switch on the handle (25).

2. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Fisher as applied to claim 13 above, and further in view of Hancock (U.S. Patent number 6,142,171).

Anderson (as modified in view of Fisher) teaches all of the limitations of claim 13, from which these claims depend. Anderson and Fisher fail to teach the solenoid operated cartridge valves and control switches. Solenoid valves are well known, and are used in place of manual valves because they can be easier to operate and are more precise. Hancock shows solenoid operated cartridge valves.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included solenoid operated cartridge valves and control switches as called for in claim 14 because they are easier to operate and are more precise.

Art Unit: 3673

With regards to claim 16; Fisher teaches the valve circulates fluid from the pump to the reservoir when the valves are not actuated; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device (as modified in view of Fisher and Hancock) to have included valve circulates fluid from the pump to the reservoir when the switches are not actuated as called for in claim 16, in order to reduce wear on the motor.

3. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Fisher and further in view of Hancock.

Anderson shows a floor-stripping machine comprising a main body with wheels; a floor engaging cutting head member attached to the main body; and an electric motor mounted on the main body and mechanically connected to the cutting head member. Anderson also shows the handle with a first end and a second end and first and second handle bars. The Anderson device is not self propelled, and fails to show the drive axle, drive wheels, hydraulic pump, reservoir, pressure outlet, hydraulic valve, hydraulic motor, and output shaft.

Fisher shows a similar device which is self-propelled and incorporates a drive axle (100) attached to drive wheels (12), hydraulic pump (30) attached to the main body and which is driven by the motor of the device, the pump coupled to a hydraulic fluid reservoir (16), the pump having an inlet coupled to the reservoir, and a pressure outlet coupled through a hydraulic valve to a hydraulic motor, the hydraulic motor having an output shaft coupled to the axle for driving the drive wheels. Fisher also shows a

Art Unit: 3673

hydraulic valve system, first (113, 114), second (118), third (116), and fourth (120, 126) hydraulic lines. It is readily apparent that hydraulic components in combination with the drive axle reduce operator fatigue.

Anderson and Fisher fail to teach the solenoid valves and control switches.

Solenoid valves are well known, and are used in place of manual valves because they can be easier to operate and are more precise. Hancock shows solenoid operated cartridge valves. Both Fisher and Anderson teach the use of controls in the handle.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Anderson device to have a drive axle attached to drive wheels, hydraulic pump attached to the main body and which is driven by the motor of the device, the pump coupled to a hydraulic fluid reservoir, the pump having an inlet coupled to the reservoir, and a pressure outlet coupled through a hydraulic valve to a hydraulic motor, the hydraulic motor having an output shaft coupled to the axle for driving the drive wheels and the hydraulic valve system, first, second, third, and fourth hydraulic lines as taught by Fisher, in order to reduce operator fatigue. It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Anderson device to have included solenoid valve and control switches in the handles because they are easier to operate and are more precise. With regards to the limitations of the valve system in the handle and the location of the switches on the opposite handles; applicant has not disclosed that the valve and switch location in the handle provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected

Art Unit: 3673

Applicant's invention to perform equally well with valve controls in the handle and the actual valves and hydraulic lines in the body because the location of the valves is irrelevant to the operation of the machine. Therefore, it would have been obvious to one of ordinary skill in the art to further modify the Anderson device to obtain the invention as specified in claim 19.

Response to Arguments

4. Applicant's arguments filed 6/24/02 have been fully considered but they are not persuasive.

Regarding claim 1: applicant has argued that the Anderson (809) reference teaches the electric motor driving the wheels. This is clearly contradictory to the disclose of the 809 patent, as well as applicant's own disclosure (page 1, line19 through page 2, line 4). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding claim 2: applicant's arguments are not persuasive, attention is drawn to col. 4, line 54 of Fisher:

"If the valve 34 is set in the reverse mode, then the pressurized oil from the valve 34 to the motor 94 will flow in the reverse direction, thereby driving the drive motor 98 in the reverse direction, which releases the ratchet bearings and allows the machine to be moved reverse by hand"

Art Unit: 3673

Regarding claims 3, 4, 7, 9, and 10; one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding claim 11; applicant's definition of "mechanism" is narrower than the usually accepted meaning of the term. The term "mechanism" does not require any proximity.

Regarding claims 14 and 16; one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the combination of the Anderson and Fisher device would not yield the claimed invention, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Applicant's arguments with respect to claims 6 and 13 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3673

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on 6:30-3:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3597 for regular communications and (703)305-7687 for After Final communications.

Art Unit: 3673

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

JJK

September 25, 2002


DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600